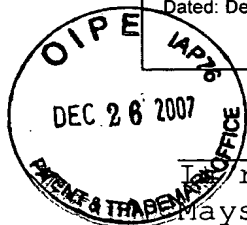


I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: December 21, 2007 Signature:

Shawn P. Foley
(Shawn P. Foley)

Docket No.: OSTEONICS 3.3-332
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of:
Mays et al.

Application No.: 10/501,754

Group Art Unit: 1713

Filed: March 21, 2005

Examiner: Not Yet
Assigned

For: GLASS-IONOMER CEMENTS CONTAINING
AMINO ACIDS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Action mailed July 2, 2007, setting forth a Restriction Requirement in the above-identified application. In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. §121:

I. Claims 1-20, 23 and 43, drawn to a composition;

II. Claims 21-22, drawn to a blend of first and second copolymers;

III. Claims 24-34, drawn to an ionomeric cement;

IV. Claims 35-40, drawn to a kit; and

V. Claims 41-42, drawn to a polymerization system.

In response, Applicants hereby elect Group I. This election is made with traverse.

Claim 1 of the present application reads as follows:

A composition for making an ionomeric cement, comprising at least one copolymer comprising at least two different carboxylic acid-containing monomers, wherein said copolymer has added thereon a bifunctional monomer having pendent polymerizable functional groups, and a comonomer containing one or more polymerizable functional groups reactive with said polymerizable functional groups on said bifunctional monomer, wherein said comonomer, at least one of said carboxylic acid-containing monomers, or both, comprises an amino acid. (emphasis added)

Contrary to the allegations set forth in the Official communication, claims 21 and 22 are not drawn to a blend of first and second copolymers, *per se*. Rather, these claims both ultimately depend from claim 1 and thus, further limit claim 1 in that they positively recite the presence of a second copolymer. At the very least, Group II which contains claims 21 and 22 should be consolidated with elected Group I for examination. Thus, the "special technical feature" is not merely the "at least one copolymer" as alleged in the Official communication, but is actually the composition set forth in claim 1. Applicants respectfully submit that each of claims 1-42 contains this special technical feature. U.S. Patent 5,369,142 does not teach compositions of claim 1. Accordingly, claims 1-42 do possess unity of invention. In view of the foregoing, reconsideration and withdrawal of the requirement for restriction are respectfully requested.

In view of the election of Group I, the Official communication also sets forth three (3) election of species requirements, as follows:

- (1) the at least two and three (*i.e.*, claim 5) different carboxylic acid containing monomers, inclusive of the various species and permutations of the

species expressed in claims 7-12 or those disclosed in the specification;

(2) the bifunctional monomer inclusive of the species expressed in claims 14-15 or those disclosed in the specification; and

(3) the comonomer containing one or two polymerizable functional group, inclusive of the species expressed in claims 18-19 or those disclosed in the specification.

In response, Applicants make the following elections. As the carboxylic acid-containing monomers, and more particularly the copolymer, Applicants hereby elect the copolymer Poly(AA-IA-MGA), which is explicitly recited in claim 9. The claims that read on this species thus include claims 1-6, 9, 13-20, 23 and 43. In response to the request for the election of the second species, Applicants hereby elect 2-isocyanatoethylmethacrylate (IEM), which is explicitly recited in claim 15. The elected claims that read on this species thus include 1-13, 15, 17-20, 23 and 43. Finally, as the third species, Applicants hereby elect the comonomer acryloyl beta-alanine, which is explicitly recited in claim 18. The elected claims that read on this elected species therefore include claims 1-18, 20, 23 and 43.

Thus, the claims that read on all three elected species include claims 1-6, 9, 15, 17-18, 20, 23 and 43.

The elections of each of these three species are made with traverse. The Official communication makes no statement, nor does it provide any reasoning or evidence in support of the bare allegation that ionomeric cement compositions containing permutations of the elected species constitute separately patentable subject matter.

In view of the foregoing, reconsideration and withdrawal of the three requirements for election of species are

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respectfully requested.

In the event any fee is due in connection with the present response, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 21, 2007

Respectfully submitted,

By Shawn P. Foley
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